

HIGH COURT OF UTTARANCHAL AT NAINITAL.

Writ Petition No. 6162(S/S)2001
(Old no. 16246/91)

1. Nasir Ahmad, S/o Sri Basir Ahmad,
Resident of E25, Towns Colony, Dak Pathar,
District Dehradun,
2. Nathi Ram S/o Sri Hari Ram,
Resident of C-433 Hydel Colony, Dak Pathar,
District Dehradun,
3. Jai Prakash S/o Sri Ram Dayal,
Resident of C-46, Towns Colony, Dak Pathar,
District Dehradun. ----- Petitioners.

Versus.

1. Chairman, Uttar Pradesh State Electricity Board,
Shakti Bhawan, 14- Ashok Marg, Lucknow,
2. Superintending Engineer, Hydle, Yamuna Circle,
Post Box No. 79, Dehradun,
3. Executive Engineer, Electricity Generation Division,
Khodri, Dak Pathar, Dehradun, ----- Respondents.

Sri Gopal Narain, learned counsel for the petitioner,
Sri Vinay Kumar, learned counsel for the respondents.

Hon'ble M.M. Ghildiyal, J.

Heard Sri Gopal Narain, learned counsel for the petitioner
and Sri Vinay Kumar, learned counsel for the respondents.

2. By means of this writ petition, the petitioners have prayed
for the following reliefs:-

- i. Issue a writ, order or direction in the nature of
certiorari quashing the order dated 02.04.1991 passed
by the respondent no. 3 (annexure-7 to the writ
petition),
- ii. Issue a writ, order or direction in the nature of
mandamus directing the respondents not to realize any
amount from the petitioners which has been paid to
them on the basis of the revised pay-scales in
pursuance of the Board's circular dated 2nd March 1988

and further directing the respondents no. 3 (Executive Engineer) not to revert the petitioners in pursuance of the order dated 02.04.1991,

- iii. Issue any other suitable, writ, order or direction as this Hon'ble High Court may deem fit and proper in the circumstances of the case,
- iv. Award costs throughout to the petitioners.

3. On 02.04.1991 an order was passed by the Executive Engineer, Electricity Generation Division, Khodri Dak Pathar, Dehradun, for recovery of the amount, which has been paid to the petitioners in excess, consequent upon the revised pay-scale granted to them. According to the respondents, the petitioners were entitled for the pay-scale of Rs. 1100-1575, however they were paid the pay-scale of Rs. 1200-1800. The difference of such pay-scale which has been paid to the petitioners was sought to be recovered by the aforesaid order.

4. Learned counsel for the petitioners has submitted that the respondents have already granted pay-scale of Rs. 1200-1800 to the petitioners vide order dated 11th May 1998 (which is annexed as annexure no. 2 to the rejoinder affidavit) and they are getting the said pay-scale since then. However, the order, by which excess, amount was sought to be recovered from the petitioners, has not been recalled by the respondents till date.

5. Keeping in view the order dated 11th May 1998 passed by the Chairman. U.P. State Electricity Board, Shakti Bhawan, 14-Ashok Marg, Lucknow, since the petitioners have already been granted pay-scale of Rs. 1200-1800 and they are getting the same pay-scale, therefore, the order dated 02.04.1991 has become irrelevant which is liable to be quashed. The writ petition deserves to be allowed.

6. Accordingly, the writ petition is allowed. The impugned order dated 02.04.1991, passed by Executive Engineer/ respondent no.3, is hereby quashed. No order as to costs.

(M.M. Ghildiyal, J.)

June 5, 2006:
NCM: